

University of Oklahoma College of Law University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

1-18-1838

Pre-emption rights defeated by Indian reservations.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Rep. No. 434, 25th Cong., 2nd Sess. (1838)

This House Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

PRE-EMPTION RIGHTS DEFEATED BY INDIAN RESERVATIONS.

[To accompany bill H. R. No. 442.]

JANUARY 18, 1838.

Mr. CHAPMAN, from the Committee on the Public Lands, made the following

REPORT:

The Committee on the Public Lands, to which were referred the memorial of the Legislature of Alabama, and the petition of certain citizens of that State, asking Congress to grant relief to such settlers on the public land as were deprived of their right of pre-emption under the act of the 19th of June, 1834, by reason of the location of Indian reservations on their improvements, have had the subject under consideration, and instruct me to report :

That it is stated that the class of settlers, for whom relief is asked, removed into the country ceded by the Creek and Choctaw Indians, in some instances *before*, and in others *after*, these treaties, and made valuable improvements, with the intention of becoming citizens of the country. That, at the passage of the said pre-emption law, they were clearly embraced within its provisions, having lived upon and cultivated at the time required by that act.

These individuals, as your committee believe, were equally meritorious with the other more fortunate settlers who secured their right of pre-emption. They contributed as much, and even more, than most of the original settlers to the general improvement of the country, giving additional value to the neighboring public lands. Like other emigrants into a new country, they expended their means (which with this class are generally limited) in opening their plantations, building houses, making roads, &c., under a confident expectation that their homes would be secured to them as they had been to others under like circumstances. In this, however, they have been disappointed ; and instead of securing the places they had improved at so much labor and expense, as it was the intention of Congress to allow them to do, by the act aforesaid, their plantations have been located upon by Indian reservees, and they forced with their families from their improvements, either by the Indians or the more cruel and relentless speculators who purchased the reservations from the Indians. Under these circumstances, they appeal to the Congress of the United States directly, and through the Legislature of

Thomas Allen, print.

their own State, for relief. Your committee believe their claim may be sustained, not only upon principles of true policy, but strict right.

If it were necessary in the present inquiry for the committee to show that the policy so long pursued by Congress, in granting to the actual settlers on the public lands a right to enter their improvements at the Government price, it is believed that arguments are not wanting to establish the proposition. They do not, however, consider it as at all involved in the present investigation. The claims of the individuals asking relief rest upon even higher grounds; as far as *their* case is concerned, the pre-emption policy has been adopted and recognised, but, by events unforeseen at the time, they have been deprived of the benefits of the law without any fault of their own. The right to enter the land they had improved, at the Government price, has been granted, by the act of 1834, to *all* settlers who resided upon and cultivated public land in 1833. The individuals who now ask relief come completely within the language of the act. They resided upon and had possession of the public land at the passage of the act, and cultivated the preceding year. They were ready to establish their right by proof, and pay the minimum price, and in many instances offered to do so at the proper land office. Under this view of the subject, your committee cannot conceive how a stronger claim to relief can be made out, independent of all arguments derived from former precedents which appear to have been established by Congress under similar circumstances. Your committee do not believe that the cases are very numerous which can come within the description of those for which relief is asked. But yet it is a fact, generally understood, that in the location of the reservations under the Indian treaties, the most valuable improvements have been taken, and thereby the most industrious and frugal class of the early settlers of the country, for whose protection the pre-emption law was passed, have been deprived of all benefits under it.

Your committee recommend, therefore, that all persons entitled to pre-emptions under the act of 1834, which have been located upon by such claims, be allowed to enter a like quantity of other lands in lieu thereof at the minimum price, or to enter one quarter section of any of the public lands which have been in market, by paying the fees of office, and report a bill accordingly.